

Be it enacted by the people of the state of _____:

Section 1. Title.

Sections 1 through 12 of this act shall be known as the _____ Medical Marijuana Act.

Section 2. Findings.

(a) Modern medical research has discovered beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

(b) Subsequent studies since the 1999 National Academy of Sciences' Institute of Medicine report continue to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions, including increasing the chances of patients finishing their treatments for HIV/AIDS and hepatitis C.

(c) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.

(d) Although federal law currently prohibits any use of marijuana except under very limited circumstances, Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island, and Washington have removed state-level criminal penalties from the medical use and cultivation of marijuana. _____ joins in this effort for the health and welfare of its citizens.

(e) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of _____ in violation of federal law.

(f) State law should make a distinction between the medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their practitioners and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

(g) The people of the state of _____ declare that they enact this act pursuant to the police power to protect the health of its citizens that is reserved to the state of _____ and its people under the 10th Amendment to the United States Constitution.

Section 3. Definitions.

The following terms, as used in this act, shall have the meanings set forth in this section:

(a) "Cardholder" means a qualifying patient, a designated caregiver, or a principal officer, board member, employee, volunteer, or agent of a compassion center who has been issued and possesses a valid registry identification card.

(b) "Compassion center staffer" means a principal officer, board member, employee, volunteer, or

agent of a compassion center who has been issued and possesses a valid registry identification card.

(c) "Debilitating medical condition" means one or more of the following:

- (1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions;
- (2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or
- (3) any other medical condition or its treatment approved by the department, as provided for in Section 6(a).

(d) "Department" means the _____ Department of Health or its successor agency.

(e) "Designated caregiver" means a person who is at least 21 years of age, who has agreed to assist with a patient's medical use of marijuana, and who has never been convicted of an excluded felony offense. A designated caregiver may assist no more than five qualifying patients with their medical use of marijuana.

(f) "Enclosed, locked facility" means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

(g) "Excluded felony offense" means:

- (1) a violent crime defined in Section _____, that was classified as a felony in the jurisdiction where the person was convicted; or
- (2) a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include:
 - (A) an offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed 10 or more years earlier; or
 - (B) an offense that consisted of conduct for which this act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this act or was prosecuted by an authority other than the state of _____.

(h) "Marijuana" has the meaning given that term in _____.

(i) "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, sale, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

(j) "Practitioner" means a person who is licensed with authority to prescribe drugs to humans under Section _____ except that in relation to a visiting qualifying patient, "practitioner" means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence.

(k) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

(l) "Registered compassion center" means a not-for-profit entity registered pursuant to Section 5

that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marijuana or related supplies and educational materials to cardholders. A registered compassion center may receive compensation for all expenses incurred in its operation.

(m) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver, or a registered principal officer, board member, employee, volunteer, or agent of a registered compassion center.

(n) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots. "Seedling" means a marijuana plant that has no flowers and is less than twelve (12) inches in height and less than twelve (12) inches in diameter. A seedling must meet all three (3) criteria set forth above.

(o) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

(p) "Verification system" means a secure, password-protected, Web-based system that is operational 24 hours each day that law enforcement personnel and compassion center staffers shall use to verify registry identification cards and that shall be established and maintained by the department pursuant to Section 7(h)(4).

(q) "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of _____ or who has been a resident of _____ less than 30 days.

(r) "Written certification" means a document signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

Section 4. Protections for the Medical Use of Marijuana.

(a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this act, provided that the qualifying patient possess an amount of marijuana that does not exceed 12 marijuana plants and six ounces of usable marijuana. Said plants shall be kept in an enclosed, locked facility, unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's or designated caregiver's property. This subsection shall not apply to matters and entities that are covered by subsections (f) or (g).

(b) A designated caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marijuana in

accordance with this act, provided that the designated caregiver possess an amount of marijuana that does not exceed 12 marijuana plants and six ounces of usable marijuana for each qualifying patient to whom he or she is connected through the department's registration process. Said plants shall be kept in an enclosed, locked facility, unless they are being transported because the designated caregiver is moving or if they are being transported to a designated caregiver's or a qualifying patient's property. This subsection shall not apply to matters and entities that are covered by subsections (f) or (g).

(c) Registered designated caregivers and registered qualifying patients shall be allowed to possess a reasonable amount of unusable marijuana, including up to 12 seedlings, which shall not be counted toward the limits in this section.

(d) (1) There shall be a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana in accordance with this act if the qualifying patient or designated caregiver:

(A) is in possession of a registry identification card; and

(B) is in possession of an amount of marijuana that does not exceed the amount allowed under this act.

(2) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(e) A registered qualifying patient or designated primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for giving marijuana to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use where nothing of value is transferred in return, or for offering to do the same, provided that the person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by Section 4.

(f) (1) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her status as a registered qualifying patient or a registered designated caregiver, unless failing to do so would put the school or landlord in violation of federal law or regulations.

(2) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana in accordance with this act shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.

(3) Unless a failure to do so would put an employer in violation of federal law or federal regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(A) The person's status as a registered qualifying patient or registered designated caregiver; or

(B) A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(g) A person shall not be denied custody of or visitation or parenting time with a minor and there shall be no presumption of neglect or child endangerment for conduct allowed under this act, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

(h) A registered designated caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana, provided that registered designated caregiver is connected to the registered qualifying patient through the department's registration process. Any such compensation shall not constitute the sale of controlled substances.

(i) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the _____ Medical Board or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(j) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered designated caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

(k) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this act, or acts incidental to such use, shall not be seized or forfeited. This act shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under this act.

(l) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this act, or for assisting a registered qualifying patient with using or administering marijuana.

(m) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess marijuana for medical purposes, shall have the same force and effect as a registry identification card issued by the department.

Section 5. Compassion Centers.

(a) Registration requirements.

The following provisions govern the registration of compassion centers.

(1) The department shall register a compassion center and issue a registration certificate, with a random 20-digit alphanumeric identification number, within 90 days of receiving an application for a compassion center, provided that the following conditions are met:

(A) The prospective compassion center provided the following, in accordance with the department's regulations:

(i) An application or renewal fee;

(ii) The legal name of the compassion center;

(iii) The physical address of the compassion center and the physical address of one additional location, if any, where marijuana will be cultivated, neither of which may be within 500 feet of a

preexisting public or private school;

(iv) The name, address, and date of birth of each principal officer and board member of the compassion center;

(v) The name, address, and date of birth of any person who is an agent of or employed by the compassion center;

(vi) Operating regulations that include procedures for the oversight of the compassion center and procedures to ensure accurate record-keeping and security measures, that are in accordance with the regulations issued by the department under Section 6(c); and

(vii) If the city or county in which the compassion center would be located has enacted reasonable zoning restrictions, a sworn and truthful statement that the registered compassion center would be in compliance with those restrictions; and

(B) Issuing the compassion center a registration would not be in violation of a reasonable limitation on the number of registered compassion centers that can operate in the jurisdiction in which it would operate; and

(C) None of the principal officers or board members has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted, unless the offense consisted of conduct for which this act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this act or was prosecuted by an authority other than the state of _____; and

(D) None of the prospective principal officers or board members has served as a principal officer or board member for a registered compassion center that has had its registration certificate revoked; and

(E) None of the principal officers or board members is younger than 21 years of age.

(2) Except as provided in Section 5(a)(3), the department shall issue each compassion center staffer a registry identification card and log-in information for the verification system within 10 days of receipt of the person's name, address, date of birth, and a fee in an amount established by the department. Each card shall specify that the cardholder is a principal officer, board member, agent, volunteer, or employee of a registered compassion center and shall contain the following:

(A) the name, address, and date of birth of the compassion center staffer;

(B) the legal name of the registered compassion center with which the compassion center staffer is affiliated;

(C) a random 20-digit alphanumeric identification number that is unique to the cardholder;

(D) the date of issuance and expiration date of the registry identification card;

(E) a photograph, if the department decides to require one; and

(F) a statement signed by the prospective principal officer, board member, agent, volunteer, or employee pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this act.

(3) (A) The department shall not issue a registry identification card to any compassion center staffer who has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted, unless the offense consisted of conduct for which this act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this act or was prosecuted by an authority other than the state of _____. The department may conduct a background check of each compassion center staffer in order to carry out this provision. The department shall notify the registered compassion center in writing of the reason for denying the registry identification card.

(B) The department shall not issue a registry identification card to any principal officer, board member, agent, volunteer, or employee of a registered compassion center who is younger than 21 years of age.

(C) The department may refuse to issue a registry identification card to a compassion center staffer who has had a card revoked for violating this act.

(b) Expiration.

(1) A registered compassion center's registration certificate and the registry identification card for each compassion center staffer shall expire one year after the date of issuance. The department shall issue a renewal compassion center registration certificate within 10 days to any registered compassion center that submits a renewal fee, provided that its registration is not suspended and has not been revoked. The department shall issue a renewal registry identification card within 10 days to any compassion center staffer who submits a renewal fee, except as provided by Section 5(a)(3).

(2) A registry identification card of a compassion center staffer shall expire and the person's login information to the verification system shall be deactivated upon notification by a registered compassion center that such person ceases to work at the registered compassion center.

(c) Inspection. Registered compassion centers are subject to reasonable inspection by the department. The department shall give at least 24 hours notice of an inspection under this paragraph.

(d) Registered compassion center requirements.

(1) A registered compassion center may not be located within 500 feet of the property line of a preexisting public or private school.

(2) A registered compassion center shall be operated on a not-for-profit basis for the mutual benefit of its members and patrons. The by-laws of a registered compassion center or its contracts with patrons shall contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit character. A registered compassion center need not be recognized as tax-exempt by the Internal Revenue Service and is not required to incorporate pursuant to _____.

(3) A registered compassion center shall notify the department within 10 days of when a compassion center staffer ceases to work at the registered compassion center.

(4) A registered compassion center shall notify the department in writing of the name, address, and date of birth of any new compassion center staffer and shall submit a fee in an amount established by the department for a new registry identification card before a new compassion center staffer begins working at the registered compassion center.

(5) A registered compassion center shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

(6) The operating documents of a registered compassion center shall include procedures for the oversight of the registered compassion center and procedures to ensure accurate recordkeeping.

(7) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' designated caregivers.

(8) All principal officers and board members of a registered compassion center must be residents of the state of _____.

(9) All cultivation of marijuana must take place in an enclosed, locked facility, which can only be accessed by principal officers, board members, agents, volunteers, or employees of the registered compassion center who are cardholders.

(10) County and city governments may enact reasonable limits on the number of registered compassion centers that can operate in their jurisdictions, and may enact zoning regulations that reasonably limit registered compassion centers to certain areas of their jurisdictions.

(e) Dispensing restrictions.

(1) Before marijuana may be dispensed to a designated caregiver or a registered qualifying

patient, a compassion center staffer must look up the registered qualifying patient for whom the marijuana is intended, and the designated caregiver transporting the marijuana to the patient, if any, in the verification system and must verify each of the following:

- (A) that the registry identification card presented to the registered compassion center is valid;
- (B) that the person presenting the card is the person identified on the registry identification card presented to the compassion center staffer; and
- (C) that the amount to be dispensed would not cause the registered qualifying patient to exceed his or her limit of obtaining six ounces of marijuana during any 30-day period.

(2) After verifying the information in subsection (e)(1), but before dispensing marijuana to a registered qualifying patient or a registered designated caregiver on a registered qualifying patient's behalf, a compassion center staffer must make an entry in the verification system, specifying how much marijuana is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver. The entry must include the date and time the marijuana was dispensed.

(f) Immunity.

(1) A registered compassion center shall not be subject to prosecution; search, except by the department pursuant to Section 5(c); seizure; or penalty in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this act and department regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other registered compassion centers.

(2) No compassion center staffers shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, solely for working for a registered compassion center in accordance with this act and department regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other registered compassion centers.

(g) Prohibitions.

(1) A registered qualifying patient shall not directly, or through his or her designated caregiver, obtain more than six ounces of marijuana from registered compassion centers in any 30-day period.

(2) A registered compassion center may not dispense, deliver, or otherwise transfer marijuana to a person other than another registered compassion center, a registered qualifying patient, or a registered qualifying patient's registered designated caregiver.

(3) A registered compassion center may not obtain marijuana from outside the state of _____.

(4) Except as provided in Section 5(a)(3), no person who has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted may be a compassion center staffer. A person who works as an agent, volunteer, employee, principal officer, or board member of a registered compassion center in violation of this section is subject to a civil violation punishable by a penalty of up to \$1,000. A subsequent violation of this section is a gross misdemeanor.

(5) A registered compassion center may not acquire usable marijuana or mature marijuana plants from any person other than another registered compassion center, a registered qualifying patient, or a registered designated caregiver. A registered compassion center is only allowed to acquire

usable marijuana or marijuana plants from a registered qualifying patient or a registered designated caregiver if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.

(6) A person who violates paragraph (2) or (5) of this subsection may not be a compassion center staffer, and such person's registry identification card shall be immediately revoked. The department may suspend or revoke a compassion center staffer's registry identification card for violating this act.

(7) A registered compassion center that violates paragraph (2) or (5) of this subsection shall immediately have its registration revoked, and its board members and principal officers may not serve as the board members or principal officers for any other registered compassion centers.

Section 6. Department to Issue Regulations.

(a) Not later than 120 days after the effective date of this act, the department shall promulgate regulations governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in Section 3(c) of this act. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, the petitions. The department shall, after hearing, approve or deny a petition within 180 days of its submission. The approval or denial of a petition is a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the _____ Court.

(b) Not later than 120 days after the effective date of this act, the department shall promulgate regulations governing the manner in which it shall consider applications for and renewals of registry identification cards.

(c) (1) Not later than 120 days after the effective date of this act, the department shall promulgate regulations governing the manner in which it shall consider applications for and renewals of registration certificates for registered compassion centers, including reasonable rules governing:

(A) The form and content of registration and renewal applications;

(B) Minimum oversight requirements for registered compassion centers;

(C) Minimum recordkeeping requirements for registered compassion centers;

(D) Minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm system; and

(E) Procedures for suspending or terminating the registration of registered compassion centers that violate the provisions of this act or the regulations promulgated pursuant to this section.

(2) The department shall design rules with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or compromising the confidentiality of registered qualifying patients and their registered designated caregivers. Any dispensing records that a registered compassion center is required to keep shall track transactions according to registered qualifying patients', registered designated caregivers', and registered compassion centers' registry identification numbers, rather than their names, to protect their confidentiality.

(d) Not later than 120 days after the effective date of this act, the department shall issue regulations establishing application and renewal fees for registry identification cards and registered compassion center registration certificates. The fees shall be in accordance with the following parameters:

(1) the total fees collected must generate revenues sufficient to offset all expenses of implementing and administering this act;

- (2) compassion center application fees may not exceed \$5,000;
- (3) compassion center renewal fees may not exceed \$1,000;
- (4) the total revenue from compassion center application and renewal fees and registry identification card fees for compassion center staffers must be sufficient to offset all expenses of implementing and administering the compassion center aspects of this act, including the verification system;
- (5) the department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's family income; and
- (6) the department may accept donations from private sources in order to reduce the application and renewal fees.

Section 7. Administering the Department's Regulations.

(a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's regulations:

- (1) written certification;
- (2) application or renewal fee;
- (3) name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
- (4) name, address, and telephone number of the qualifying patient's practitioner; and
- (5) name, address, and date of birth of the designated caregiver designated, if any, by the qualifying patient;
- (6) a statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this act; and
- (7) a signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this act.

(b) The department shall not issue a registry identification card to a qualifying patient who is younger than 18 years of age unless:

- (1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and
- (2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - (A) allow the qualifying patient's medical use of marijuana;
 - (B) serve as the qualifying patient's designated caregiver; and
 - (C) control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a registry identification card revoked for violating this act, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the _____ Court.

(d) The department shall issue a registry identification card to the designated caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of one designated

caregiver per qualifying patient, provided that the designated caregiver meets the requirements of Section 3(e). The department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the designated person. A designated caregiver shall be issued a registry identification card each time the designated caregiver is designated by a qualifying patient.

(e) The department shall issue registry identification cards to qualifying patients and to designated caregivers within five days of approving an application or renewal. Each registry identification card shall expire one year after the date of issuance, unless the practitioner states in the written certification that he or she believes the qualifying patient would benefit from medical marijuana only until a specified earlier or later date, then the registry identification card shall expire on that date. Registry identification cards shall contain all of the following:

- (1) Name, address, and date of birth of the qualifying patient;
- (2) Name, address, and date of birth of the designated caregiver, if any, of the qualifying patient;
- (3) The date of issuance and expiration date of the registry identification card;
- (4) A random 20-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;
- (5) If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting; and
- (6) A photograph, if the department decides to require one.

(f) The following notifications and department responses are required:

- (1) A registered qualifying patient shall notify the department of any change in his or her name, address, or designated caregiver, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days of such change.
- (2) A registered qualifying patient who fails to notify the department of any of these changes is subject to a civil infraction, punishable by a penalty of no more than \$150. If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card is null and void upon notification by the department to the qualifying patient.
- (3) Any registered designated caregiver or compassion center staffer must notify the department of any change in his or her name or address within 10 days of such change. A registered designated caregiver or compassion center staffer who fails to notify the department of any of these changes is subject to a civil infraction, punishable by a penalty of no more than \$150.
- (4) When a cardholder notifies the department of any changes listed in this paragraph, the department shall issue the cardholder a new registry identification card with new random 20-digit alphanumeric identification numbers within 10 days of receiving the updated information and a \$10 fee. If the person notifying the department is a registered qualifying patient, the department shall also issue his or her registered designated caregiver, if any, a new registry identification card within 10 days of receiving the updated information.
- (5) When a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the department shall notify the designated caregiver within 10 days. The registered designated caregiver's protections under this act as to that qualifying patient shall expire 10 days after notification by the department.
- (6) If a cardholder loses his or her registry identification card, he or she shall notify the department and submit a \$10 fee within 10 days of losing the card. Within five days after such notification, the department shall issue a new registry identification card with a new random identification number to the cardholder and, if the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

(g) Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(h) The following confidentiality rules shall apply:

(1) Applications and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners, are confidential.

(2) Applications and supporting information submitted by compassion centers and compassion center personnel operating in compliance with this act, including the physical addresses of compassion centers, are confidential.

(3) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list shall be confidential, exempt from the _____ Freedom of Information Act, and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department and as provided in paragraph (4) of this subsection.

(4) Within 120 days of the effective date of this act, the department shall establish a secure, password-protected, Web-based verification system that is operational 24 hours each day, which law enforcement personnel and compassion center staffers can use to verify registry identification cards. The verification system must allow law enforcement personnel and compassion center staffers to enter in a registry identification number to determine whether or not the number corresponds with a current, valid ID card. The system shall disclose the name and photograph of the cardholder, but shall not disclose the cardholder's address. The system shall also display the amount and quantity of marijuana that each registered qualifying patient received from compassion centers during the past 60 days. The system shall allow compassion center staffers to add the amount of marijuana dispensed to registered qualifying patients, directly or through their designated caregivers, and the date and time the marijuana was dispensed. The verification system must include the following data security features:

(A) Any time an authorized user enters five invalid registry identification numbers within five minutes, that user cannot log in to the system again for 10 minutes; and

(B) The server must reject any log-in request that is not over an encrypted connection.

(4) Any hard drives containing cardholder information must be destroyed once they are no longer in use, and the department shall retain a signed statement from a department employee confirming the destruction.

(5) (A) It shall be a crime, punishable by up to 180 days in jail and a \$1,000 fine, for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this act.

(B) Notwithstanding this provision, this section shall not prevent the following notifications:

(i) Department employees may notify law enforcement about falsified or fraudulent information submitted to the department, so long as the employee who suspects that falsified or fraudulent information has been submitted confers with his or her supervisor (or at least one other employee of the department) and both agree that circumstances exist that warrant reporting;

(ii) The department may notify state or local law enforcement about apparent criminal violations of this act, provided that the employee who suspects the offense confers with his or her supervisor and both agree that circumstances exist that warrant reporting; and

(iii) Compassion center staffers may notify the department of a suspected violation or attempted violation of this act or the regulations issued pursuant to it.

(i) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this act shall have his or her registry identification card revoked, and shall be subject to other penalties for the unauthorized sale of marijuana. The department may revoke the registry identification card of any cardholder who violates this act, and the cardholder shall be subject to any other penalties for the violation.

(j) The department shall submit to the legislature an annual report that does not disclose any identifying information about cardholders, compassion centers, or practitioners, but does contain, at a minimum, all of the following information:

- (1) The number of applications and renewals filed for registry identification cards;
- (2) The number of qualifying patients and designated caregivers approved in each county;
- (3) The nature of the debilitating medical conditions of the qualifying patients;
- (4) The number of registry identification cards revoked;
- (5) The number of practitioners providing written certifications for qualifying patients;
- (6) The number of registered compassion centers; and
- (7) The number of compassion center staffers.

(k) Where a state-funded or locally funded law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that he or she is a registered cardholder or an entity whose personnel credibly assert that it is a compassion center, the law enforcement agency shall not provide any information from any marijuana-related investigation of the person to any law enforcement authority that does not recognize the protection of this act and any prosecution of the individual, individuals, or entity for a violation of this act shall be conducted pursuant to the laws of this state.

(l) The application for qualifying patients' registry identification cards shall include a question asking whether the patient would like the department to notify him or her of any clinical studies regarding marijuana's risk or efficacy that seek human subjects. The department shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in the United States.

Section 8. Affirmative Defense and Dismissal for Medical Marijuana.

(a) Except as provided in Section 9, a patient may assert the medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for the patient's medical use, and this defense shall be presumed valid where the evidence shows that:

- (1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and
- (2) The patient and the patient's designated caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and
- (3) The patient was engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of marijuana, paraphernalia, or both, relating to the administration of marijuana solely to treat or alleviate the patient's serious or debilitating medical condition or symptoms

associated with the patient's serious or debilitating medical condition.

(b) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).

(c) If a patient demonstrates the patient's medical purpose for using marijuana pursuant to this section, except as provided in Section 9, the patient and the patient's designated caregiver shall not be subject to the following for the patient's use of marijuana for medical purposes:

- (1) disciplinary action by an occupational or professional licensing board or bureau; or
- (2) forfeiture of any interest in or right to non-marijuana, licit property.

Section 9. Scope of Act.

(a) This act shall not permit any person to do any of the following, nor shall it prevent the imposition of any civil, criminal, or other penalties for any such actions:

- (1) Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;
- (2) Possess marijuana, or otherwise engage in the medical use of marijuana:
 - (A) in a school bus;
 - (B) on the grounds of any preschool or primary or secondary school; or
 - (C) in any correctional facility.
- (3) Smoke marijuana:
 - (A) on any form of public transportation; or
 - (B) in any public place.
- (4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
- (5) Use marijuana if that person does not have a serious or debilitating medical condition.

(b) Nothing in this act shall be construed to require:

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;
- (2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This act shall not limit a person or entity in lawful possession of property, or an agent of such person or entity, from expelling a person who uses marijuana without permission from their property and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property; or
- (3) An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana, provided that a qualifying patient shall not be considered to be under influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment. This act shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

(c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of \$500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this act.

Section 10. Enforcement of this Act.

(a) If the department fails to adopt regulations to implement this act within 120 days of the effective date of this act, a qualifying patient or a prospective board member or prospective principal officer of a compassion center may commence an action in ____ court to compel the department to perform the actions mandated pursuant to the provisions of this act.

(b) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this act within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.

(c) If at any time after the 140 days following the effective date of this act the department is not accepting applications, including if it has not created regulations allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to Section 7(a)(2-5) together with a written certification shall be deemed a valid registry identification card.

Section 11. Severability.

Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.

Section 12. Date of Effect.

This act shall take effect upon its approval.